

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI

Crim Misc Appli 11 of 2007

JAMES MUNENE KANYI.....APPLICANT

Versus

REPUBLIC.....DEFENDANT

RULING

An application has been made by James Munene Kanyi. He seeks that his trial at the Nyeri Magistrate's Court be transferred to another court with similar jurisdiction. In making that application he gives the following reasons:

1. *That the learned trial magistrate seems to be single sided mainly on the prosecution side in all matters surrounding the trial proceedings.*
2. *That the learned trial magistrate has ignored most of my application relevant said case in:-*
 - (a) *She has duly denied me all the necessary documents so relevant to the case i.e. Karatina Police Station O.B.*
 - (b) *She normally and usually deny me all my legal right pertaining a criminal case.*
3. *That the magistrate is duly delaying the trial which amount to unfair trial, the same arraigned on 12/7/05.*
4. *That I feel the end of justice will not be apprehended while the trial magistrate has entirely filled me with fear.*
5. *That most of the remands who have come after myself have their cases heard and determined.*

The application was opposed by State Counsel. He submitted that it is brought in anticipation of the outcome of the case and that it had no merit and should be dismissed. The Applicant in response stated that he was seeking the assistance of the High Court in having the matter transferred.

I confirm that I have perused the lower court's file and I find that the Applicant's trial has progressed and the prosecution has now closed its case and the Accused has been put to his defence. I have perused the whole proceedings and I cannot find any basis for the application made herein. The Applicant's rights have not been violated. Accordingly the application filed in this Court on 7th May 2007 is hereby dismissed. The lower courts file Criminal Case No. 3346 of 2005 is hereby returned to the Nyeri Magistrate's court for the trial to continue.

Dated and delivered at Nyeri this 27th day of July 2007.

MARY KASANGO

JUDGE